

AGENDA ITEM

July 54 -132

Annual Recommendation to
the Supreme Court for
Expungement of Member
Records in accordance with
Rule of Court 9.6 (b)

DATE: June 30, 2009

TO: Members of the Board of Governors,
Members of the Board Committee on Member Oversight

FROM: Dina DiLoreto, Director of Administration, Member Services

SUBJECT: Annual Recommendation to the Supreme Court for Expungement
of Member Records in accordance with Rule of Court 9.6(b)

ATTACHMENT: List of members to be expunged (available at meeting)

Executive Summary

The Member Services Center requests permission to expunge the suspension records of the approximately 146 members with fee suspensions that meet the conditions set forth in California Rule of Court 9.6 (b).

These are members who have one fee suspension that occurred more than 7 years ago and was for 90 days or less, and who have no other record of suspension or involuntary inactive enrollment for discipline or otherwise. Pursuant to Rule 9.6(b), they are eligible to be granted a one-time only expungement.

Questions concerning this item should be directed to Dina DiLoreto at 415-538-2121 or Dina.DiLoreto@calbar.ca.gov.

BACKGROUND

California Rule of Court 9.6 (b) allows for the one-time expungement of a State Bar of California Member's record of fee suspension if the following conditions apply:

- 1) The member has not on any previous occasion obtained expungement under the terms of rule 9.6(b);
- 2) The suspension was for 90 days or less;
- 3) The suspension ended at least seven years before the date of submission of member's name to the Supreme Court; and
- 4) The member has no other record of suspension of involuntary inactive enrollment for discipline or otherwise.

State Bar staff has prepared a list of approximately 146 members to whom the expungement rule applies. Should the Board adopt the resolution, the State Bar will transmit the list to the Supreme Court, recommending that each of these members' public record of suspension for nonpayment of membership fees be expunged. Upon issuance of the Court's order, these members will be notified by mail that such record has been expunged.

Rule 9.6(c) requires that the State Bar of California maintain such internal records as are necessary to apply the terms of 9.6(b) of this rule and to report to appropriate governmental entities the member's eligibility for a judgeship under the California Constitution, article VI, section 15 which requires judicial nominees to report all suspensions within the last 10 years of their judicial application. State Bar staff have developed a process and protocol to meet this requirement. Rule 9.6(d) further outlines the members' duty of disclosure under these circumstances.

BOARD AUTHORITY

California Rules of Court, rule 9.6(b) authorizes the State Bar to transmit to the Supreme Court, on an annual basis, the names of those members who meet the criteria of rule 9.6(b) along with a recommendation that their public record of suspension for non-payment of membership fees be expunged. To be eligible for expungement, the following criteria must be met:

- 1) The member has not on any previous occasion obtained expungement under the terms of rule 9.6(b);
- 2) The suspension was for 90 days or less;
- 3) The suspension ended at least seven years before the date of submission of member's name to the Supreme court;
- 4) The member has no other record of suspension of involuntary inactive enrollment for discipline or otherwise.

FISCAL AND PERSONNEL IMPACT

There is no direct fiscal impact to this action. The execution of the expungement process will be absorbed by the regular operations of the Information Technology and Member Services Divisions.

BOARD BOOK/ADMINISTRATIVE MANUAL

This item has no impact on the Board Book/Administrative manual.

BOARD COMMITTEE RECOMMENDATION

If the Board Committee on Member Oversight concurs with the recommendation, adoption of the following resolution would be in order:

RESOLVED: that the Board Committee on Member Oversight recommends that, pursuant to California Rule of Court 9.6 and the Rules of the State Bar, the Board of Governors authorize that a list of member's with fee suspensions that are eligible for expungement of that fee suspension be transmitted to the Supreme Court along with a recommendation that the Court order that the their public record of suspension for nonpayment of membership fees be expunged; and

FURTHER RESOLVED: that the Board Committee on Member Oversight recommends that the Board of Governors authorize staff to expunge those members' public record of suspension upon order of the Supreme Court.

PROPOSED BOARD RESOLUTION

If the Board concurs with the recommendation of Board Committee on Member Oversight, adoption of the following resolution would be in order:

RESOLVED: pursuant to California Rule of Court 9.6 and the Rules of the State Bar, and upon recommendation of the Board Committee on Member Oversight, that the Board of Governors hereby authorizes that a list of members with fee suspensions who are eligible for expungement of that fee suspension be transmitted to the Supreme Court along with a recommendation that the Court order that the their public record of suspension for nonpayment of membership fees be expunged; and

FURTHER RESOLVED: that the Board of Governors hereby authorizes staff to expunge those members' public record of suspension upon order of the Supreme Court.